

Message Text

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PAGE 01 IAEA V 00583 231532Z

44

ACTION SCI-06

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C O N F I D E N T I A L IAEA VIENNA 0583

EO: 11652: GDS

TAGS: PARM, IAEA, US, SP

SUBJ: AMENDMENT OF SPAIN-US-IAEA TRILATERAL NUCLEAR SAFEGUARDS
AGREEMENT

REF: STATE 11723

1. AS TIME SLIPS*BY AND STILL NO RPT NO WORD RECEIVED BY AGENCY FROM SPANISH OFFICIALS, IT IS BECOMING HIGHLY QUESTIONABLE WHETHER IT WILL BE POSSIBLE TO HAVE SUBJECT AMENDMENT CONSIDERED BY FEBRUARY BOARD OF GOVERNORS, PARTICULARLY IN VIEW TOUGH LINE BE-*ING TAKEN BY DG RE EARLY DISTRIBUTION OF BOARD DOCUMENTS. MORE-OVER, MISSION HAS UNCOVERED APPARENT OVERSIGHT IN TEXT OF AMENDMENT (SEE BELOW), WHICH COULD PROVE EXTREMELY TROUBLESOME TO US IF NOT RPT NOT CORRECTED, THUS INTRODUCING ANOTHER POSSIBLE DELAY.

2. STATE 5584 NOTES THAT NEW BILATERAL SHOULD BE BROUGHT INTO FORCE PRIOR TO IAEA'S NEXT FOLLOWING BOARD SESSION IN JUNE. MISSION WOULD APPRECIATE ADVICE SOONEST AS TO WHETHER THERE IS ANY FLEXIBILITY IN BRINGING NEW BILATERAL INTO FORCE. IS IT ESSENTIAL TO HAVE AMENDMENT CONSIDERED AT FEB BG OR COULD IT BE DELAYED UNTIL REGULAR JUNE BOARD OR PERHAPS SPECIAL BOARD IN APRIL, IF SCHEDULED FOR THIS OR OTHER MATTERS?

3. POTENTIALLY TROUBLESOME PROBLEM WE HAVE DISCOVERED IS THAT
CONFIDENTIAL

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PAGE 02 IAEA V 00583 231532Z

AMENDED TRILATERAL WOULD NOT RPT NOT ITSELF BE FULLY CONSISTENT

WITH SAFEGUARDS "TERMINATION AND DURATION" CONCEPTS SET FORTH IN GOV/1621, WHICH, AS DEPT/AEC RECALL, WAS CARRIED OVER TO FEB BG AFTER EXTENSIVE DEBATE IN SEPT MEETING. WHILE LAST SENTENCE OF SECTION 31 OF TRILATERAL SATISFIES MOST OF GOV/1621 PRINCIPLES, IT DOES NOT RPT NOT PROVIDE FOR CONTINUATION OF SAFEGUARDS ON "SUPPLIED NUCLEAR MATERIAL" OR PROVIDE FOR US-SUPPLIED EQUIPMENT OR FACILITIES TO REMAIN ON THE INVENTORY UNTIL REMOVED UNDER SPECIFIED CONDITIONS. (WE RECOGNIZE, OF COURSE, THAT TRILATERAL WHEN COMBINED WITH BILATERAL DOES MEET GOV/1621 PRINCIPLES, WHICH FULLY SATISFIES U.S., BUT, UNFORTUNATELY, AGENCY IS NOT RPT NOT PARTY TO BILATERAL NOR IS BILATERAL BROUGHT TO BG.)

4. IN VIEW OF OUR *STRONG SUPPORT FOR AND OUR DIFFICULTY IN GETTING GENERAL ACCEPTANCE OF PRINCIPLES EMBODIED IN GOV/1621, WE BELIEVE IT WOULD PLACE US IN HIGHLY UNFAVORABLE AND EMBARRASSING POSITION TO ASK BG TO APPROVE AN AGREEMENT NOT RPT NOT FULLY *CONSISTENT ON IT* FAC WITH THOSE PRINCIPLES IMMEDIATELY ON HEELS OF THEIR CONSIDERATION AND (HOPEFULLY) APPROVAL. MOREOVER, WE WOULD NOT WISH TO ESTABLISH PRECEDENT UNDER WHICH UNSATISFACTORY EXISTING UNILATERAL SUBMISSION, FOR EXAMPLE, COULD BE PERPETUATED OR EXTENDED IN SCOPE BY AMENDMENT, WITHOUT CORRECTING DEFICIENCY.

5. BELIEVE PROBLEM CAN BE CORRECTED BY ADDING TWO NEW SECTIONS TO AMENDMENT, WHICH WOULD READ AS FOLLOWS: "SECTION 18 IS AMENDED BY ADDING THE FOLLOWING SENTENCE AT THE END OF THE EXISTING TEXT: 'OTHER MATERIALS, EQUIPMENT OR FACILITIES LISTED IN CATEGORY I OF THE INVENTORY (OTHER THAN SUCH MATERIALS, EQUIPMENT OR FACILITIES TRANSFERRED IN ACCORDANCE WITH SECTION 13(B) OR 14), SHALL BE DELETED FROM THE INVENTORY AND AGENCY SAFEGUARDS THEREON SHALL BE TERMINATED, WHEN AND AS THE AGENCY DETERMINES THAT SUCH MATERIALS, EQUIPMENT OR FACILITIES HAVE BEEN CONSUMED, ARE NO LONGER USABLE FOR ANY NUCLEAR ACTIVITY RELEVANT FROM THE POINT OF VIEW OF SAFEGUARDS OR HAVE BECOME PRACTICABLY IRRECOVERABLE.'" "SECTION 31 IS AMENDED BY DELETING 'SECTION 10(A)(III)' IN THE LAST SENTENCE AND INSERTING IN LIEU THEREOF 'SECTION 10(A)'." WHILE THESE ADDITIONAL CHANGES APPEAR RELATIVELY MINOR, WE RECOGNIZE THAT RAISING THIS MATTER AT THIS LATE DATE WITH AGENCY AND SPANISH AUTHORITIES COULD FURTHER DELAY CIRCULATION OF BG DOCUMENT, THUS VIRTUALLY ASSURING THAT DG WOULD NOT RPT NOT PUT IT BEFORE FEB BG. SINCE WE ARE UNAWARE OF FACTORS INVOLVED IN TIM-

CONFIDENTIAL

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PAGE 03 IAEA V 00583 231532Z

ING BEHIND BRINGING NEW BILATERAL INTO FORCE, WE HAVE NOT RPT NOT MENTIONED THIS PROBLEM FOR TIME BEING EITHER WITH AGENCY OR SPANISH REPS, PENDING FURTHER GUIDANCE FROM WASHINGTON.
M REQUEST ADVICE SOONEST. PORTER

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